

## **REMARKS/ARGUMENTS**

### **Claim Amendments**

The Applicant has amended claims 1 and 14. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-26 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **Claim Rejections – 35 U.S.C. § 102(e)**

Claims 14-15, 17-19, and 22-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Liebenow, (US 6,459,896B1). The Applicant has amended claim 14 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claim is respectfully requested.

Claim 14 has been amended and now recites that a quality of service provided to the communication device in the network is changed in response to the power level calculations. Support for this amendment is found on page 7, lines 19-24 and page 13, lines 10-22. The Applicant's claimed invention changes the data transfer (i.e., the data transfer rate) according to the detected power level of the communication device.

Liebenow describes a system and method for notifying a remote device of a low battery capacity condition. A detector monitors the capacity and when a low battery capacity condition is detected, communications between the wireless device and the remote device is maintained until the low battery capacity condition is corrected. Specifically, Liebenow merely describes communicating a power level of a wireless device with another remote device and maintaining the communications link while changing the battery.

The Applicant's claimed invention provides a change in the quality of service (i.e., data transfer rate) provided to the communication device in response to the power level of the communication device. For example, normally the communication device may transmit and receive data at a specified data transfer rate. This data transfer rate is reduced in response to detecting a low power level. Liebenow does not disclose

changing the quality of service dependent upon the power level of the communication device.

Thus, Liebenow does not disclose all the limitations of claim 14. Claims 15, 17-19, and 22-24 depend from amended claim 14 and recite further limitations in combination with the novel elements of claim 14. Therefore, the allowance of claims 14-15, 17-19, and 22-24 is respectfully requested.

#### **Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 1-2, 4-7, 11-13, 20 and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Liebenow (US Patent 6,459,896B1) in view of Motohashi (US Patent 7,050,829B2). The Applicant has amended claims 1 and 14 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claims is respectfully requested.

Claim 1 has been amended and now recites that a quality of service provided to the communication device in the network is changed in response to the power level calculations. Support for this amendment is found on page 7, lines 19-24 and page 13, lines 10-22. The Applicant's claimed invention changes the data transfer (i.e., the data transfer rate) according to the detected power level of the communication device.

As discussed above, Liebenow merely describes communicating a power level of a wireless device with another remote device and maintaining the communications link while changing the battery. Liebenow does not disclose changing the quality of service dependent upon the power level of the communication device.

Motohashi discloses a visual indication of the power level in a message so that the call destination knows the battery capacity of the sending party. Motohashi does not teach or suggest changing the quality of service dependent upon the power level of the communication device.

In regards to claims 7 and 20, the Examiner stated that Liebenow and Motohashi discloses the claimed invention wherein the traffic is voice traffic and a voice call is begun on the mobile terminal at a first quality of service level according to an initially determined power level and that the voice call is continued at a second quality of

service level according to a subsequently determined power level and power drain rate of the batter. The Applicant respectfully disagrees with this characterization. Motohashi merely discloses changing the visual indication of the power level when a specified power level is reached. Neither Motohashi nor Liebenow teach or suggest changing the quality of service. A careful review of both Motohashi and Liebenow does not reveal any disclosure of a change of any quality of service. Therefore, Motohashi and Liebenow do not disclose the limitations recited in claims 7 and 20.

Claims 2, 4-7, and 11-13 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Claims 20, 25, and 26 depend from amended claim 14 and recite further limitations in combination with the novel elements of claim 14. Therefore, the allowance of claims 1-2, 4-7, 11-13, 20 and 25-26 is respectfully requested.

Claims 3 and 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Liebenow (US Patent 6,459,896B1) in view of Motohashi (US Patent 7,050,829B2) and in further view of Lee et al. (US Patent Application Publication #2002/0013143A1). The Applicant has amended claim 1 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claim is respectfully requested.

Claim 1 has been amended and now recites that a quality of service provided to the communication device in the network is changed in response to the power level calculations. Support for this amendment is found on page 7, lines 19-24 and page 13, lines 10-22. The Applicant's claimed invention changes the data transfer (i.e., the data transfer rate) according to the detected power level of the communication device.

Liebenow and Motohashi do not disclose changing the quality of service dependent upon the power level of the communication device. Lee does not make up the missing elements.

Claims 3 and 8-10 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 3 and 8-10 is respectfully requested.

Claims 16 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Liebenow (US Patent 6,459,896B1) in view of Lee et al. (US Patent Application Publication #2002/0013143A1). The Applicant has amended claim 14 to better define the intended scope of the claimed invention. The Examiner's consideration of the amended claim is respectfully requested.

Claim 14 has been amended and now recites that a quality of service provided to the communication device in the network is changed in response to the power level calculations. The Applicant's claimed invention changes the data transfer (i.e., the data transfer rate) according to the detected power level of the communication device.

Liebenow does not disclose changing the quality of service dependent upon the power level of the communication device. Lee does not make up the missing elements.

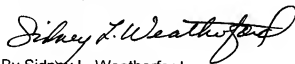
Claims 16 and 21 depend from amended claim 14 and recite further limitations in combination with the novel elements of claim 14. Therefore, the allowance of claims 16 and 21 is respectfully requested.

**CONCLUSION**

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sidney L. Weatherford", with a stylized flourish at the end.

By Sidney L. Weatherford  
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